Departments, the Executive Office of the President, and certain independent agencies for the fiscal year ending June 30, 1965, and for other purposes, and submitted a report (No. 1095) thereon, which was printed.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. INOUYE:

S. 2920. A bill for the relief of William Wong; and

S. 2921. A bill to amend the War Claims Act of 1948 and the Trading With the Enemy Act to provide for the submission of certain claims and the reinstatement of certain claims; to the Committee on the Judiciary.

NOTICE OF RESUMPTION OF HEARINGS ON PENDING IMMIGRATION AND NATURALIZATION LEGISLATION

Mr. EASTLAND. Mr. President, as chairman of the Senate Immigration and Naturalization Subcommittee, I wish to announce a resumption of the hearings on pending immigration and naturalization legislation starting on June 25, 1964, at 10:30 a.m., in room 2228, New Senate Office Building.

Priority in the scheduling of witnesses will be given to any sponsors of pending legislation who were unable to appear at the prior hearings.

Executive department witnesses will be invited to appear, following which, interested nongovernmental organizations will be scheduled, as well as any groups or persons who wish to voice opposition to the pending proposals to revise our present immigration and naturalization laws.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. THURMOND:

Article entitled "World War III Threatening: Failure To Understand Red Menace Blamed," written by Constantine Brown and published on June 12, 1964, in the State, of Columbia, S.C.

Resolution entitled "In God We Trust," adopted on May 22, 1964, by the board of directors of the Southern States Industrial Council.

By Mr. GORE:

Article entitled "Judges Here Know Secret of Keeping Dockets Clear," written by Kenneth L. Dixon and published in the Memphis Commercial Appeal of June 11, 1964, dealing with the state of the docket of the Federal court for the western district of Tennessee.

By Mr. KEATING:

Letter written by Charles H. Kellstadt on role of board of governors of New York Stock Exchange in furthering public interest by insistence on high standards in the marketplace.

By Mr. MAGNUSON:

Letter and resolution of Washington Association of Sheriffs & Police Chiefs, in tribute to J. Edgar Hoover.

By Mr. COOPER:

Book review of the book "The Burden and the Glory," by John F. Kennedy, edited by Allan Nevins, published in Book Week, issue of May 31, a publication of the Washington Post.

THE CIVIL RIGHTS BILL AND PUBLIC SCHOOLS

Mr. ERVIN. Mr. President, after the bill now before the Senate is enacted, the people of America will learn to their sorrow that Edmund Burke spoke tragic truth when he said bad laws are the worst sort of tyranny.

The bill glorifies the office of the Attorney General above that of the President. It is replete with provisions vesting in the single fallible human being occupying the office of Attorney General at any particular time, regardless of his wisdom or unwisdom and regardless of his qualifications or lack of qualifications, arbitrary, capricious, and virtually unreviewable power of unprecedented magnitude, which no man who believes in the reign of law should want and which no man who is sensitive to political considerations should have.

This observation is illustrated in vivid fashion by title IV, which is inserted in the bill for the ostensible purpose of implementing the judge-made concept attached to the 14th amendment for the first time at 12 noon on May 17, 1954, by *Brown* v. *Board of Education of Topeka,* 347 U.S. 483.

Title IV provides, in essence, that upon receipt from private sources of written statements conforming to paragraphs (1) and (2) of subsection (a) of section 407, the Attorney General shall have the absolute power to be exercised solely according to his own capricious desire or fancy to demand of Federal district courts in suits prosecuted at public expense that they assume the administrative tasks of assigning pupils to public schools and to classrooms within such schools in order to achieve "desegregation in public schools and within such schools"—section 401(b)—in all public school districts in all areas of the Nation except those made privileged sanctuaries by the proviso beginning on line 18 on page 21. This proviso was devised by certain proponents of the bill to minimize the impact of title IV upon cities of the North and East having segregated residential patterns. It is obvious that these gentlemen abhor segregation in the South more than they do segregation on their own doorsteps.

While title IV is allegedly inserted in the bill to implement the Brown case, it goes far beyond what was held in that case.

When all is said, title IV is based upon the theory that the Brown case holds that a State is compelled by the equal protection clause of the 14th amendment to provide affirmatively an integrated education.

The Brown case holds nothing of the kind. On the contrary, the Brown case holds exactly the opposite.

Its holding was explained in simple and understandable words by the late Chief Judge John J. Parker of the Fourth Circuit in the per curiam opinion written by him in *Briggs* v. *Elliott,* 132 F. Supp. 776. I quote his words:

Having said this, it is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the Federal courts are to take over or regulate the public schools of the States. It has not decided that the States must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a State may not deny to any person on account of race the right to attend any school that it maintains. This, under the decision of the Supreme Court, the State may not do directly or indirectly; but if the schools which it maintains are open to children of all races, no violation of the Constitution is involved even though the children of different races voluntarily attend different schools, as they attend different churches. Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The 14th amendment is a limitation upon the exercise of power by the State or State agencies, not a limitation upon the freedom of individuals.

Judge Parker's analysis of the holding in the Brown case was sustained in the Brown case itself on its remand by the Supreme Court to the Federal District Court sitting in Kansas—139 F. Supp. 468. Moreover, it was subsequently upheld in the following Federal cases:

First. *Evans* v. *Buchanan,* 207 F. Supp. 820, which was handed down by the U.S. District Court for the District of Delaware on August 29, 1962.

Second. *Bell* v. *School City of Gary, Ind.,* 213 F. Supp. 819, which was handed down by the U.S. District Court for the Northern District of Indiana on January 29, 1963.

Third. *Bell* v. *School City of Gary,* 324 F. 2d 209, which affirmed the ruling of the U.S. District Court for the Northern District of Indiana and which was handed down by the U.S. Court of Appeals of the Seventh Circuit on October 31, 1963.

I ask unanimous consent that copies of these decisions be printed at this point in the body of the RECORD.

There being no objection, the decisions were ordered to be printed in the RECORD, as follows:

BROWN ET AL. *v.* BOARD OF EDUCATION OF TOPEKA ET AL.

(No. 1—Appeal from the U.S. District Court for the District of Kansas,[1] argued December 9, 1952; reargued December 8, 1953; decided May 17, 1954)

Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amend-

[1] Together with No. 2, *Briggs et al.* v. *Elliott et al.,* on appeal from the United States District Court for the Eastern District of South Carolina, argued December 9–10, 1952, reargued December 7–8, 1953; No. 4, *Davis et al.* v. *County School Board of Prince Edward County, Virginia, et al.,* on appeal from the United States District Court for the Eastern District of Virginia, argued December 10, 1952, reargued December 7–8, 1953; and No. 10, *Gebhart et al.* v. *Belton et al.,* on certiorari to the Supreme Court of Delaware, argued December 11, 1952, reargued December 9, 1953.

ment—even though the physical facilities and other "tangible" factors of white and Negro schools may be equal. (Pp. 486–496.)

(a) The history of the Fourteenth Amendment is inconclusive as to its intended effect on public education. (Pp. 489–490.)

(b) The question presented in these cases must be determined, not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the full development of public education and its present place in American life throughout the Nation. (Pp. 492–493.)

(c) Where a State has undertaken to provide an opportunity for an education in its public schools, such an opportunity is a right which must be made available to all on equal terms. (P. 493.)

(d) Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors may be equal. (Pp. 493–494.)

(e) The "separate but equal" doctrine adopted in *Plessy* v. *Ferguson*, 163 U.S. 537, has no place in the field of public education. (P. 495.)

(f) The cases are restored to the docket for further argument on specified questions relating to the forms of the decrees. (Pp. 495–496.)

Robert L. Carter argued the cause for appellants in No. 1 on the original argument and on the reargument. Thurgood Marshall argued the cause for appellants in No. 2 on the original argument and Spottswood W. Robinson, III, for appellants in No. 4 on the original argument, and both argued the causes for appellants in Nos. 2 and 4 on the reargument. Louis L. Redding and Jack Greenberg argued the cause for respondents in No. 10 on the original argument and Jack Greenberg and Thurgood Marshall on the reargument.

On the briefs were Robert L. Carter, Thurgood Marshall, Spottswood W. Robinson, III, Louis L. Redding, Jack Greenberg, George E. C. Hayes, William R. Ming, Jr., Constance Baker Motley, James M. Nabrit, Jr., Charles S. Scott, Frank D. Reeves, Harold R. Boulware and Oliver W. Hill for appellants in Nos. 1, 2 and 4 and respondents in No. 10; George M. Johnson for appellants in Nos. 1, 2 and 4; and Loren Miller for appellants in Nos. 2 and 4. Arthur D. Shores and A. T. Walden were on the Statement as to Jurisdiction and a brief opposing a Motion to Dismiss or Affirm in No. 2.

Paul E. Wilson, Assistant Attorney General of Kansas, argued the cause for appellees in No. 1 on the original argument and on the reargument. With him on the briefs was Harold R. Fatzer, Attorney General.

John W. Davis argued the cause for appellees in No. 2 on the original argument and for appellees in Nos. 2 and 4 on the reargument. With him on the briefs in No. 2 were T. C. Callison, Attorney General of South Carolina, Robert Mc Figg, Jr., S. E. Rogers, William R. Meagher and Taggart Whipple.

J. Lindsay Almond, Jr., Attorney General of Virginia, and T. Justin Moore argued the cause for appellees in No. 4 on the original argument and for appellees in Nos. 2 and 4 on the reargument. On the briefs in No. 4 were J. Lindsay Almond, Jr., Attorney General, and Henry T. Wickham, Special Assistant Attorney General, for the State of Virginia, and T. Justin Moore, Archibald G. Robertson, John W. Riely and T. Justin Moore, Jr., for the Prince Edward County School Authorities, appellees.

H. Albert Young, Attorney General of Delaware, argued the cause for petitioners in No. 10 on the original argument and on the reargument. With him on the briefs was Louis J. Finger, Special Deputy Attorney General.

By special leave of Court, Assistant Attorney General Rankin argued the cause for the United States on the reargument, as amicus curiae, urging reversal in Nos. 1, 2 and 4 and affirmance in No. 10. With him on the brief were Attorney General Brownell, Philip Elman, Leon Ulman, William J. Lamont and M. Magdelena Schoch. James P. McGranery, then Attorney General, and Philip Elman filed a brief for the United States on the original argument, as amicus curiae, urging reversal in Nos. 1, 2 and 4 and affirmance in No. 10.

Briefs of amici curiae supporting appellants in No. 1 were filed by Shad Polier, Will Maslow and Joseph B. Robison for the American Jewish Congress; by Edwin J. Lukas, Arnold Forster, Arthur Garfield Hays, Frank E. Karelsen, Leonard Haas, Saburo Kido and Theodore Leskes for the American Civil Liberties Union et al.; and by John Ligtenberg and Selma M. Borchardt for the American Federation of Teachers. Briefs of amici curiae supporting appellants in No. 1 and respondents in No. 10 were filed by Arthur J. Goldberg and Thomas E. Harris for the Congress of Industrial Organizations and by Phineas Indritz for the American Veterans Committee, Inc.

Mr. Chief Justice Warren delivered the opinion of the Court.

These cases come to us from the States of Kansas, South Carolina, Virginia, and Delaware. They are premised on different facts and different local conditions, but a common legal question justifies their consideration together in this consolidated opinion.[1a]

In each of the cases, minors of the Negro race, through their legal representatives, seek the aid of the courts in obtaining admission to the public schools of their community on a nonsegregated basis. In each instance, they had been denied admission to schools attended by white children under laws requiring or permitting segregation according to race. This segregation was alleged to deprive the plaintiffs of the equal protection of the laws under the 14th amendment. In each of the cases other than the Delaware case, a three-judge Federal district court denied relief to the plaintiffs on the so-called "separate but equal" doctrine announced by this Court in *Plessy* v. *Ferguson*, 163 U.S. 537. Under that doctrine, equality

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[1a] In the Kansas case, *Brown* v. *Board of Education*, the plaintiffs are Negro children of elementary school age residing in Topeka. They brought this action in the United States District Court for the District of Kansas to enjoin enforcement of a Kansas statute which permits, but does not require, cities of more than 15,000 population to maintain separate school facilities for Negro and white students. Kan. Gen. Stat. § 72–1724 (1949). Pursuant to that authority, the Topeka Board of Education elected to establish segregated elementary schools. Other public schools in the community, however, are operated on a nonsegregated basis. The three-judge District Court, convened under 28 U.S.C. §§ 2281 and 2284, found that segregation in public education has a detrimental effect upon Negro children, but denied relief on the ground that the Negro and white schools were substantially equal with respect to buildings, transportation, curricula, and educational qualifications of teachers. 98 F. Supp. 797. The case is here on direct appeal under 28 U.S.C. § 1253.

In the South Carolina case, *Briggs* v. *Elliott*, the plaintiffs are Negro children of both elementary and high school age residing in Clarendon County. They brought this action in the United States District Court for the Eastern District of South Carolina to enjoin enforcement of provisions in the state constitution and statutory code which require the segregation of Negroes and whites in public schools. S.C. Const., Art. XI, § 7; S.C. Code § 5377 (1942). The three-judge District Court, convened under 28 U.S.C. §§ 2281 and 2284, denied the requested relief. The court found that the Negro schools were inferior to the white schools and ordered the defendants to begin immediately to equalize the facilities. But the court sustained the validity of the contested provisions and denied the plaintiffs admission to the white schools during the equalization program. 98 F. Supp. 529. This Court vacated the District Court's judgment and remanded the case for the purpose of obtaining the court's views on a report filed by the defendants concerning the progress made in the equalization program. 342 U.S. 350. On remand, the District Court found that substantial equality had been achieved except for buildings and that the defendants were proceeding to rectify this inequality as well. 103 F. Supp. 920. The case is again here on direct appeal under 28 U.S.C. § 1253.

In the Virginia case, *Davis* v. *County School Board*, the plaintiffs are Negro children of high school age residing in Prince Edward County. They brought this action in the United States District Court for the Eastern District of Virginia to enjoin enforcement of provisions in the state constitution and statutory code which require the segregation of Negroes and whites in public schools. Va. Const., § 140; Va. Code § 22–221 (1950). The three-judge District Court, convened under 28 U.S.C. §§ 2281 and 2284, denied the requested relief. The court found the Negro school inferior in physical plant, curricula, and transportation, and ordered the defendants forthwith to provide substantially equal curricula and transportation and to "proceed with all reasonable diligence and dispatch to remove" the inequality in physical plant. But, as in the South Carolina case, the court sustained the validity of the contested provisions and denied the plaintiffs admission to the white schools during the equalization program. 103 F. Supp. 337. The case is here on direct appeal under 28 U.S.C. § 1253.

In the Delaware case, *Gebhart* v. *Belton*, the plaintiffs are Negro children of both elementary and high school age residing in New Castle County. They brought this action in the Delaware Court of Chancery to enjoin enforcement of provisions in the state constitution and statutory code which require the segregation of Negroes and whites in public schols. Del. Const., Art. X, § 2; Del. Rev. Code § 2631 (1935). The Chancellor gave judgment for the plaintiffs and ordered their immediate admission to schools previously attended only by white children, on the ground that the Negro schools were inferior with respect to teacher training, pupil-teacher ratio, extracurricular activities, physical plant, and time and distance involved in travel. 87 A. 2d 862. The Chancellor also found that segregation itself results in an inferior education for Negro children (see note 10, infra), but did not rest his decision on that ground. Id., at 865. The Chancellor's decree was affirmed by the Supreme Court of Delaware, which intimated, however, that the defendants might be able to obtain a modification of the decree after equalization of the Negro and white schools had been accomplished. 91 A. 2d 137, 152. The defendants, contending only that the Delaware courts had erred in ordering the immediate admission of the Negro plaintiffs to the white schools, applied to this Court for certiorari. The writ was granted, 344 U.S. 891. The plaintiffs, who were successful below, did not submit a cross-petition.